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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/583,554	06/19/2006	Mineyuki Kubota	292333US0PCT	9827

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EXAMINER	
BROOKS, CLINTON A	

ART UNIT	PAPER NUMBER
4121	

NOTIFICATION DATE	DELIVERY MODE
03/11/2009	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No.	Applicant(s)	
	10/583,554	KUBOTA ET AL.	
	Examiner	Art Unit	
	CLINTON BROOKS	4121	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *17 February 2009*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-12* is/are pending in the application.

4a) Of the above claim(s) *7-11* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-6 and 12* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *See Continuation Sheet*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

Continuation of Attachment(s) 3). Information Disclosure Statement(s) (PTO/SB/08), Paper No(s)/Mail Date :06/19/2006; 09/13/2006; 07/28/2008; 08/21/2008; 01/22/2009.

DETAILED ACTION

This application, application no. 10/583,554, is a national stage application of PCT/JP04/18964. The PCT/JP04/18964, filed December 13, 2004, claims benefit of Japanese application no. 2003-423317, filed December 19, 2003.

Status of Claims

Claims 1-12 are pending.

Restriction/Election

Applicant's election of Group I, claims 1-6, 12 with traverse is acknowledged. Further, Applicants species election of:

(1) ANG

(2) Claims 2-4

(3) A^1 and A^2 are 2-naphthyl group

Ar^1 is a hydrogen atom

Ar^2 is a phenyl group and

R^9 and R^{10} are a hydrogen atom

with traverse is acknowledged. Applicant argues that restriction is only proper if the claims of the restricted groups are independent or patentably distinct and there would be serious search burden placed on the Examiner. Further, the Applicant agues stating:

> Applicants submit that while PCT Rule 13.1 and 13.2 are applicable 37 C.F.R. § 1.475(e) provide, in relevant part, that "a national stage application containing claims to different categories of invention will be considered to have unity of invention, if the claims are drawn to products and the use thereof. The determination of whether a group of inventions is so linked as to form a single

> general inventive concept should be made without regard to whether the inventions are claimed as separate claims or as alternatives within a single claim.

However these arguments are not found to be persuasive. The instant application is a 371 application therefore the independent and distinct standard does not apply. The unity of invention standard applies. Further, search burden is not relevant under 371. According to 37 C.F.R. 1.475(e) The determination whether a group of inventions is so linked as to form a single general inventive concept shall be made without regard to whether the inventions are claimed in separate claims or as alternatives within the same claim.

The restriction is proper under the unity of invention standard because independent claim 1 fails to make a contribution over the prior art (see reference below). Further, a species of the claimed invention is taught by the reference cited below. Thus, there is no special technical feature linking the claims.

However, Examiner has reconsidered the species election requirement. The species requirement is withdrawn.

In view of the above, the restriction requirement for the two separate Groups is deemed proper, and is therefore made FINAL.

Claims 7-11 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected group or species, there being no generic or linking claim. Claims 1-6, 12 are under examination in the instant office action.

Information Disclosure Statements

The information disclosure statements ("IDS") received June 19, 2006; September 13, 2006; July 28, 2008; August 21, 2008; and January 22, 2009 are acknowledged. All references within those five information disclosure statements not marked with a strikethrough have been considered.

Claim Objections

Claim 1 is objected to because of the following informalities: The wherein clause immediately below figure 1 recites: "wherein, A^1 and A^2 each independently represent a substituted or unsubstituted aromatic hydrocarbon ring group having carbon atoms of 10 to 20 ring;" Examiner has interpreted the "10 to 20 ring" to mean 10 to 20 ring carbons. Appropriate correction is required.

Non-Statutory Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Provisional Double Patenting

Claims 1, is provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 1, 2 of copending Application No. 10519934 ("the '934 application"). Although the conflicting claims are not identical, they are not patentably distinct from each other because the limitations of the instant application are anticipated or obvious variants of the '042. Specifically, the '934 application teaches an anthracene derivative wherein Ar and Ar' is selected from a group of ring systems having substituted aromatic hydrocarbon ring group having 10 to 20 ring carbons (claim 1). Further the '934 application teaches that the substituents on the anthracene ring can by represented by a substituted or unsubstituted alkyl group (claim 1 of '934), and claim 2 recites to an anthracene derivative as stated in claim 1 of the '934 application wherein the anthracene derivative is a light emitting material for organic luminescence.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

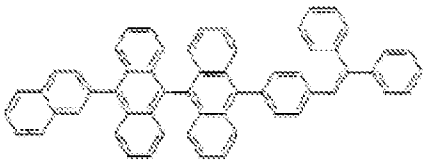
A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

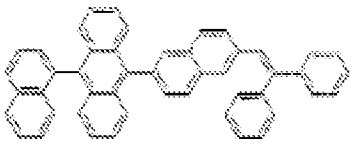
Claims 1-6 and 12 are rejected under U.S.C. § 102(b) as being anticipated by JP2001-097897 ("the '897 publication", note that both the reference and a machine translation are provided).

Regarding claim 1, the '897 publication teaches a light emitting material for an organic electroluminescent device comprising an asymmetric anthracene derivative represented by formula (I) (structure A-6 and A-7 below, paragraph, [0037]), wherein A1 and A2 represent a substituted or unsubstituted aromatic hydrocarbon ring group having carbon atoms of 10 to 20 atoms (naphthalene or anthracene based group), R1 through R10 = H (A-6, A-7).

(A-6)



(A-7)



Regarding claims 2-5, the '897 publication teaches structure A-6 and A-7 above. Regarding claim 2-3, A1 and A2 independently represent a 1-naphthyl, 2-naphthyl group (claim 2,3, A-7), or an anthryl group (claim 2, A-6). Regarding claim 4 and 5, Ar1 and A2 each represent hydrogen (A-7).

Regarding claims 6, the '897 publication teaches asymmetric anthracene A-6, wherein the asymmetric anthracene comprises a substituted condensed aromatic hydrocarbon ring group having ring carbon atoms of 12 to 20 (an anthracene group having 14 carbons).

Regarding claim 12, the '897 publication teaches compound A-6 which is a light emitting material for an organic electroluminescent device comprising an asymmetric anthracene derivative represented by formula (1'), wherein A1 and A2 each independently represent a substituted or unsubstituted condensed aromatic hydrocarbon ring group having ring carbon atoms of 10 to 20 (naphthyl and anthryl groups), and at least one of A1 and A2 represents a substituted condensed aromatic hydrocarbon ring group having ring carbon atoms of 12 to 20 (anthryl group), Ar1 and Ar2 represent H and a substituted phenyl ring, R1-R8 = hydrogen (A-6), and R9 and R10 = hydrogen.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CLINTON BROOKS whose telephone number is (571)270-7682. The examiner can normally be reached on Monday-Friday 8:00 AM to 5:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, PATRICK NOLAN can be reached on (571)272-0847. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Cab

/Patrick J. Nolan/
Supervisory Patent Examiner, Art Unit 4121